

AMENDMENT UNDER 37 C.F.R. 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 2126
PATENT
SERIAL NO. 09/506,640
ATTORNEY DOCKET 99P7475US01

REMARKS

Supervisory Examiner Follansbee is thanked for telephonically discussing the present Office Action with Applicant's representative Michael Haynes on or about 24 September 2003. During that discussion, it was agreed that the finality of the rejections would be withdrawn and a new Office Action issued.

Since the new Office Action has not yet been received, reconsideration of this application is respectfully requested in view of the following remarks. Claims 1-58 remain in the application. Claims 1, 13, 21, 36, and 51 are the independent claims.

The Obviousness Rejection

Claims 1-58 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Koppolu (U.S. Patent No. 6,460,058). This rejection is respectfully traversed.

To the extent that official notice is taken to support the rejection of any claim (e.g., the rejection of claims 24, 25, 31 and 32), Applicant respectfully traverse and request citation and provision of a reference that supports the rejection. See MPEP 2144.03.

Applicant respectfully repeats that there has been no admission of prior art. "When applicant states that something is prior art, it is taken as being available as prior art against the claims". See MPEP 2129. The Background section of an application, however, comprises a "paragraph(s) describing to the extent practical the state of the prior art or other information disclosed known to the applicant..." See MPEP 608.01(c)(2). Since no statement is made that any information in the Background section is prior art, no information in the Background section is admitted by the Applicant to be prior art. Thus, only Koppolu stands as a properly cited reference.

Yet Koppolu does not establish a *prima facie* case of obviousness. "To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion



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or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." *See* MPEP § 2143.

Claims 1-58 recite a "method for accessing a specific instance associated with a programmable logic controller coupled to an operating system, wherein said specific instance is not registered with said operating system such that a server of said operating system is not able to normally access said specific instance using a registration of said operating system, wherein said specific instance has specific parameters that differentiate said specific instance from other instances". Koppolu does not teach or suggest "method for accessing a specific instance associated with a programmable logic controller coupled to an operating system, wherein said specific instance is not registered with said operating system such that a server of said operating system is not able to normally access said specific instance using a registration of said operating system, wherein said specific instance has specific parameters that differentiate said specific instance from other instances".

Claims 1-58 also recite "registering said specific instance with said operating system such that said specific instance, which was previously not registered with said operating system such that said server was not able to normally access said specific instance, is accessible by said server by checking said operation system's registration." Koppolu does not teach or suggest "registering said specific instance with said operating system such that said specific instance, which was previously not registered with said operating system such that said server was not able to normally access said specific instance, is accessible by said server by checking said operation system's registration."

Further claims 1-58 recite "determining that said specific instance is not registered with the operating system". Although Koppolu allegedly discloses "check running object table" (FIG.

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8A, item 253), Koppolu does not expressly or inherently teach or suggest a "determining that said specific instance is not registered".

Consequently, Koppolu does not teach or suggest all of the claim limitations, and thus does not establish a *prima facie* case of obviousness. Reconsideration and withdrawal of the rejection is respectfully requested. Because no *prima facie* rejection of any independent claim has been presented, no *prima facie* rejection of any dependent claim can be properly asserted. Therefore, reconsideration and withdrawal of these rejections is respectfully requested.

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CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. §1.16 or §1.17 to Deposit Account No. 19-2179. The Examiner is invited to contact the undersigned at 732-321-3113 to discuss any matter regarding this application.

Respectfully submitted,

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Date: 10/28/03

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OCT 28 2003